NOTIFICATION.

Order No. P. 248—Legis. 35-30-4, dated Bangalore, 12—14th July 1933.

Ordered that the accompanying Regulation to amend the Hindu Law as to the Rights of Women which received the assent of His Highness the Maharaja, on the 29th day of June 1933, be published as Regulation No. X of 1933, in the *Mysore Gazette* for general information.

S. N. APPANNA IYENGAR,
Secretary to Government,
General Department.

REGULATION X OF 1933.

RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE 29TH DAY OF JUNE 1933.

Regulation to amend the Hindu Law as to the Rights of Women and in certain other respects.

Whereas it is expedient to amend the Hindu Law as to the Rights of Women, and in certain other respects; It is hereby enacted as follows :— Preamble.

PRELIMINARY.

1. (1) This Regulation may be called the Hindu Law Women's Rights Regulation, 1933. Short title.

(2) It extends to the whole of Mysore. Extent.

(3) It shall come into force on the first day of January 1934. Commencement.

2. (1) This Regulation applies to persons who but for the passing of this Regulation, would have been subject to the law of Mitakshara in respect of the provisions herein enacted. Application.

(2) Save as aforesaid, nothing herein contained shall be deemed to affect any rules or incidents of the Hindu Law which are not inconsistent with the provisions of this Regulation.

Interpretation clause.

3. In this Regulation, unless there is anything repugnant in the subject or context—

(*a*) "agnate" means a relative connected by an unbroken line of male descent from a common ancestor, and includes a female related to an agnate by marriage;

(*b*) "ancestor" includes three generations, male or female, in ascent from the same person;

(*c*) "cognate" means a relative connected by a line of descent from a common ancestor broken by one or more female links, and includes a female related to a cognate by marriage;

(*d*) "full estate" means the sum total of the rights exercisable over any property, including the power of unfettered disposal *inter vivos* and by will;

(*e*) "Hindu" means a person governed by the Mitakshara School of Hindu Law;

(*f*) "issue" includes three generations, male or female, in descent from the same person;

(*g*) "last full owner" means the person in whom the full estate in any property was last vested at the time of his or her death;

(*h*) "limited estate" means any estate other than a full estate;

(*i*) "next reversioner" includes, where the next reversioner is a female, also the next male reversioner, and, where there are more reversioners than one, the whole body of reversioners next entitled to the reversion at any given time;

(*j*) "propositus" means the person whose relatives are to be reckoned;

(*k*) "relative" means a person connected either by blood, that is to say, through descent from a common ancestor, or by marriage with a person connected by blood.

PART I.

INHERITANCE.

Order of succession.

4. (1) The succession to a Hindu male dying intestate shall, in the first place, vest in the members of the

family of the propositus mentioned below, and in the following order:—

(i) the male issue to the third generation;
(ii) the widow;
(iii) daughters:
(iv) daughters' sons;
(v) the mother;
(vi) the father;
(vii) widows of predeceased sons;
(viii) sons' daughters;
(ix) daughters' daughters;
(x) brothers of the whole blood;
(xi) brothers of the half blood;
(xii) sons' sons' daughters, sons' daughters' sons, sons' danghters' daughters, daughters' sons' sons, daughters' sons' daughters, daughters' daughters' sons, and daughters' daughters' daughters;
(xiii) widows of predeceased grandsons and great grandsons.

(2) On failure of the family of the propositus, the succession shall pass to the family of the father of the propositus mentioned below, and in the following order:—

(i) brothers' male issue to the second generation;
(ii) sisters;
(iii) half sisters;
(iv) sisters' sons;
(v) half sisters' sons;
(vi) the father's mother;
(vii) the father's father;
(viii) step-mothers;
(ix) brothers' widows;
(x) brothers' daughters;
(xi) sisters' daughters;
(xii) father's brothers of the whole blood;
(xiii) father's brothers of the half blood;
(xiv) brothers' sons' daughters, brothers' daughters' sons, brothers' daughters' daughters, sisters' sons' sons, sisters' sons' daughters, sisters' daughters' sons, and sisters' daughters' daughters;
(xv) widows of brothers' male issue to the second generation.

(3) On failure of the family of the father of the propositus, the succession shall pass to the family of the paternal grandfather, and next thereafter to the family

of the paternal great-grandfather, the members of each family ranking among themselves in the same relative order as the members corresponding to them in the family of the father.

(4) On failure of the families of paternal ancestors to the third degree as above, the succession shall pass to the maternal ancestors to the third degree and their respective families, one after the other, and under the same rules *mutatis mutandis* as to relative order within each such family as are applicable to the families of the paternal ancestors.

(5) The members (where there are more than one) of each of the groups indicated above by Roman numerals and of the groups corresponding to them under sub-sections (3) and (4) shall, among themselves, take simultaneously and in equal shares (*per capita*), provided that the male issue of the propositus shall take according to stock (*per stirpes*).

(6) Every reference to the son of a female relative in this section shall be read as excluding a son adopted after the death of such female relative.

Illustration.—A sister's son does not include a son adopted after the sister's death.

General rules as to order of preference.

5. Except as otherwise specially provided in the preceding section and in section 12, the order of preference among heirs shall be regulated by the following rules:—

Firstly, a nearer line shall exclude one more remote.

Explanation to Rule I.—The descendants of the propositus constitute a nearer line than those of the father, the descendants of the father a nearer line than those of the grandfather, and so on, up to a limit of three degrees from and exclusive of the common ancestor in each case.

Secondly, within each line limited as aforesaid, agnates shall be preferred to cognates irrespective of degree.

Thirdly, among agnates, and likewise among cognates, heirs nearer in degree to the propositus shall exclude those more remote; but where the degrees are equal, a male shall be preferred to a female.

Explanation to Rule III.—Male issue up to three generations shall count as one degree for the purpose of this Rule.

Fourthly, in the absence of any ground of preference as herein provided, heirs of the same degree reckoned from the propositus shall take equally.

PART II.

SEPARATE PROPERTY, PARTITION AND ADOPTION.

Self-acquisitions deemed to be separate property.

6. (1) Property acquired by a member of a joint Hindu family by his own exertions, skill, learning or talents, or acquired in any other manner, without material and direct aid from property belonging to the joint family, shall be deemed to be the separate property of such member, notwithstanding that, at any time previous to, or at the time of his acquiring such property, such member may have been maintained or supported, or have received training or education of any kind (general, special, technical, or other), at the expense of the joint family or of any member thereof.

Separate property to pass by succession in case of intestacy.

(2) Such separate property of a person shall, in the event of his dying intestate, pass by succession to his own heirs, male or female.

Separation of interest by expression of intention.

7. (1) Where a member of a joint Hindu family not being a minor has, by conduct or by declaration, expressed clearly and unequivocally, and to the knowledge of the other members, his intention to separate himself from the family, he shall be deemed to have become divided in interest from such other members from the time of such expression of intention.

Separate share or interest to pass by succession in case of intestacy.

(2) The share or interest in joint family property of a member becoming divided in interest under sub-section (1) shall, in the event of his dying intestate, pass by succession to his own heirs, male or female, even though no actual division of property may have been made.

Certain females entitled to shares at partition.

8. (1) (*a*) At a partition of joint family property between a person and his son or sons, his mother, his unmarried daughters and the widows and unmarried daughters of his predeceased undivided sons and brothers who have left no male issue shall be entitled to share with them.

(*b*) At a partition of joint family property among brothers, their mother, their unmarried sisters and the widows and unmarried daughters of their predeceased

undivided brothers who have left no male issue shall be entitled to share with them.

(*c*) Sub-sections (*a*) and (*b*) shall also apply *mutatis mutandis* to a partition among other co-parceners in a joint family.

(*d*) Where joint family property passes to a single co-parcener by survivorship, it shall so pass subject to the rights to shares of the classes of females enumerated in the above sub-sections.

(2) Such share shall be fixed as follows:—

(*a*) in the case of the widow, one-half of what her husband, if he were alive, would receive as his share;

(*b*) in the case of the mother, one-half of the share of a son if she has a son alive, and, in any other case, one-half of what her husband, if he were alive, would receive as his share;

(*c*) in the case of every unmarried daughter or sister, one-fourth of the share of a brother if she has a brother alive, and, in any other case, one-fourth of what her father, if he were alive, would receive as his share: provided that the share to which a daughter or sister is entitled under this section shall be inclusive of, and not in addition to, the legitimate expenses of her marriage including a reasonable dowry or marriage portion.

(3) In this section, the term "widow" includes, where there are more widows than one of the same person all of them jointly, and the term "mother" includes a step-mother and, where there are both a mother and a step-mother, all of them jointly and the term "son" includes a step-son as also a grandson and a great grandson; and the provisions of this section relating to the mother shall be applicable *mutatis mutandis* to the paternal grand-mother and great grand-mother.

(4) Fractional shares of the females as fixed above shall relate to the share of the husband, son, father or brother as the case may be and their value shall be ascertained by treating one share as allotted to the male and assigning therefrom the proper fractional shares to the female relatives.

(5) Each of the female relatives referred to in sub-section (1) shall be entitled to have her share separated off and placed in her possession:

Provided always as follows :— Provisos.

(i) No female relative shall be entitled to a share in property acquired by a person and referred to in section 6, so long as he is alive ;

(ii) No female whose husband or father is alive shall be entitled to demand a partition as against such husband or father, as the case may be ;

(iii) A female entitled to a share in any property in one capacity of relationship shall not be entitled to claim a further or additional share in the same property in any other capacity.

Illustration.—A and his son B effect a partition of their family property. A has a mother and two unmarried daughters. Their shares will be as follows :—

Father	.. ..	1
Son	.. ..	1
Mother	.. ..	$\frac{1}{2}$
Two daughters	.. ..	$\frac{1}{4}$ each.

The property will be divided in the above proportion, the father getting $\frac{1}{3}$, the son $\frac{1}{3}$, the mother $\frac{1}{6}$ and each daughter $\frac{1}{12}$.

9. (1) In the absence of an express prohibition in writing, by the husband, his widow, or, where he has left more widows than one, the seniormost of them shall be presumed to have his authority to make an adoption. Authority to adopt.

(2) No adoption made by a widow shall— Effect of adoption.

(*a*) divest her of her estate in any *stridhana* property, other than such as she may have taken by inheritance from her husband ; or

(*b*) affect her right to obtain at any time, at her option, either maintenance charged upon the property inherited from her husband, or a separate share therein equal to one-half of the share of the adopted son ; or

(*c*) affect her right to manage such property, as well as to act as the guardian of the person of the adopted son, during his minority.

(3) An arrangement made prior to or at the time of an adoption as aforesaid, whereby the adopted son if he be a major, or his natural father or mother if he be a minor, agrees to his rights in or over the property of the adoptive father being limited, curtailed, or postponed in the interests of the adoptive mother, shall be valid and binding on the adopted son. Validity of pre-adoption arrangements.

PART III.

WOMEN'S FULL ESTATE.

What is "*stridhana*."

10. (1) "*Stridhana*" means property of every description belonging to a Hindu female, other than property in which she has, by law or under the terms of an instrument, only a limited estate.

(2) *Stridhana* includes:—

(*a*) all ornaments and apparel belonging to a female;

(*b*) all gifts received by a female at any time (whether before, at or after her marriage) and from any person (whether her husband or other relative or a stranger);

(*c*) property acquired by a female by her own exertions, skill, learning or talents;

(*d*) property acquired by a female by purchase, agreement, compromise, finding or adverse possession;

(*e*) the income, and savings from income, of all property whatsoever vested in a female, whether absolutely or otherwise;

(*f*) property obtained by a female as her share at a partition; and

(*g*) property taken by inheritance by a female from another female and property taken by inheritance by a female from her husband or son, or from a male relative connected by blood except when there is a daughter or daughter's son of the propositus alive at the time the property is so inherited.

(3) All gifts and payments other than or in addition to, or in excess of, the customary presents of vessels, apparel and other articles of personal use made to a bride or bridegroom in connection with their marriage or to their parents or guardians or other persons on their behalf, by the bridegroom, bride, or their relatives or friends, shall be the *stridhana* of the bride.

Nature of estate in *stridhana*.

11. (1) A female owning *stridhana* property shall have over it absolute and unrestricted powers both of enjoyment and of disposition *inter vivos* and by will, subject only to the general law relating to guardianship during minority.

(2) Except when acting as the lawful guardian of his wife, a husband shall have no right to or interest in

any portion of his wife's *stridhana* during her life, nor shall he be entitled to control the exercise of any of her powers in relation thereto.

Succession to *stridhana*.

12. (1) The succession to *stridhana* property belonging to a Hindu female dying intestate shall be as follows :—

I. In the first instance, to her children and grand-children, if any, in the following order :—

(*i*) her children, male and female ;

(*ii*) her grand-children, male and female ;

Provided that in the case of *stridhana* property comprised in clauses (*a*) and (*b*) of sub-section (2) of section 10, the order shall be as follows :—

(*a*) daughters ;

(*b*) daughters of daughters ;

(*c*) sons of daughters ;

(*d*) sons ;

(*e*) sons and daughters of sons.

II. In the absence of children and grand-children, to—

(*iii*) the husband, if any, lawfully married to the said female :

(*iv*) the husband's heirs in order of succession to him.

III. Failing the husband and his heirs, or if the said female was unmarried or not lawfully married, then to her own relatives in the following order :—

(*v*) uterine brothers and sisters ;

(*vi*) mother ;

(*vii*) father ;

(*viii*) father's heirs in order of succession to the father ;

(*ix*) mother's heirs in order of succession to the mother.

Explanation.—"Children" in this sub-section includes illegitimate as well as legitimate children and children born out of wedlock.

(2) The members (where there are more than one) of each group of heirs specified in sub-section (1) shall take simultaneously and in equal shares, provided that the descendants of the deceased female in the second generation shall take *per stripes* and not *per capita*.

Estate of heir to *stridhana* property.

13. Any person, male or female, inheriting *stridhana* property shall take therein a full estate.

Gifts and bequests to have same effect for females as for males.

14. A gift or bequest in favour of a female shall be construed in the same manner, and shall have the same effect in all respects, as a gift or bequest in favour of a male.

Bequests without words of limitation.

15. Where property, immovable or movable, is bequeathed to a female, she shall be entitled to the whole interest of the testator therein, unless it appears from the will that only a restricted interest was intended for her.

PART IV.

WOMEN'S LIMITED ESTATE.

Nature of estate in property inherited from males.

16. In property other than *stridhana* as defined in sections 12 and 13, a female shall take a limited estate.

Proviso.

Provided that it shall be competent to a female having only a limited estate in any property to acquire a full estate therein by obtaining from the next reversioner a release of his entire interest in such property in her favour.

Rights of holder of limited estate.

17. A female having only a limited estate in any property is nevertheless entitled—

(*a*) to the undisturbed possession of such property, and to absolute and unrestricted powers both of enjoyment and disposition *inter vivos* or by will over the income therefrom;

(*b*) to manage the property at her unfettered discretion without being accountable to any one else for her acts done in the course of such management; and

(*c*) to lease, mortgage or otherwise alienate the property for any period not extending beyond the termination of her limited estate;

and shall be competent—

(*d*) fully and completely to represent the property, including reversionary and other interests therein, in suits and proceedings affecting the same.

Restrictions on powers of holder of limited estate.

18. (1) A female having only a limited estate in any property is not entitled—

(*a*) to alienate the property or any portion thereof for any period extending beyond the termination of her

limited estate, except in cases where the alienation is made for a necessary purpose, or is assented to, ratified, or intentionally acquiesced in by the next reversioner; or

(*b*) to waste or expend the *corpus* of the property; except where the property is movable and its consumption is necessitated by the insufficiency of the income available for her maintenance.

"Necessary purpose."

(2) "Necessary purpose" in this section means any purpose which is for the benefit of the property or is proper or incidental to the position in life and society of the female owner concerned.

Illustrations.—(*a*) The reasonable personal requirements of the female owner, and the reasonable requirements of her children in respect of their upbringing, education, marriage and settlement in life, are necessary purposes.

(*b*) The reasonable expenses for the furtherance of the spiritual benefit of herself and her husband, customary gifts on ceremonial occasions, and reasonable acts of charity, are necessary purposes.

Surrender or relinquishment by holder of limited estate.

19. A surrender or relinquishment by a female having a limited estate in any property in favour of the next reversioner is not invalid or ineffective merely because it does not extend to the whole of the property comprised in the limited estate, or because the transaction provides for or contemplates some benefit to such female owner in addition to maintenance, or any other return or consideration:

Provided that no such surrender or relinquishment shall affect any alienation of property made by her prior thereto.

Investments.

20. All unappropriated income of any property in which a female has only a limited estate, and all purchases and investments made by her out of the income of such property, unless clearly intended to be an accretion to such property, shall be deemed to be her *stridhana*.

Succession on termination of limited estate.

21. On the termination of the limited estate of a female owner, the property comprised in such estate shall pass to the person who at the time is the next heir of the last full owner.

PART V.

MAINTENANCE.

Females entitled to maintenance.

22. (1) In addition to any others legally entitled to maintenance, a Hindu male, provided he is possessed of sufficient means, shall be bound to maintain the following female relatives, namely:—

(*a*) his step-mother; and

(*b*) his unmarried full sister until she attains majority.

(2) Every person, male or female, who inherits the property of a Hindu male shall, to the extent of the property inherited, be bound to maintain the female relatives entitled to maintenance from such Hindu.

(3) The manager of a joint Hindu family shall, to the extent of the property of the joint family in his possession or control, be bound to maintain the female relatives of every member thereof entitled to maintenance from such member:

Provisos.

Provided that no female relative who is entitled to a share under section 8 and who has obtained such share shall be entitled to claim maintenance.

Wife when entitled to separate maintenance.

23. A wife is entitled to refuse to live with her husband and to claim separate maintenance, in any of the following cases, namely:—

(*a*) when he is suffering from any venereal or loathsome disease;

(*b*) when he keeps a concubine in his house;

(*c*) when he marries a second wife;

(*d*) when he habitually treats his wife with such cruelty or harshness as to endanger her health or personal safety; or with such gross neglect as to make her life with him miserable;

(*e*) when he renounces the Hindu religion.

Right to maintenance unconditional.

24. The legal right of a widow or other female to maintenance shall not be curtailed by any act to which she is not a free and consenting party, and shall not be affected by non-compliance with conditions or directions, if any, imposed or made by her husband or any other person.

Amount of maintenance.

25. (1) In determining the amount of maintenance to which a female is entitled, regard shall be had:

firstly, to the means of the person, if any, liable to the claim, and, in cases where the claim is limited to the extent of property available, to the value of such property from the point of view of income;

secondly, to the claims of other persons, if any, entitled to maintenance as against the same person or out of the same property;

thirdly, to the position in life of the female, and that of her parents if she be unmarried, or of her husband if she be married or is a widow; and

fourthly, to the reasonable wants of the female.

(2) Regard shall also be had to any independent and assured means of support possessed by the female, provided such means are derived from property of a productive character, or from sources not dependent on the will of a third person.

Illustration.—Jewels, vessels, furniture and apparel, since they are not property of a productive character, are not to be taken into account.

"Reasonable wants."

(3) The expression "reasonable wants" in this section includes, not only the ordinary expenses of living, such as food, raiment and residence, but also provision for such religious and educational requirements as are incidental to the station in life of the female entitled to maintenance.

Variations in amount of maintenance.

(4) The amount of maintenance once fixed shall not be varied to the prejudice of the female concerned, unless such variation is just and necessary owing to a substantial change in any of the circumstances referred to in sub-sections (1) and (2).

Maintenance when a charge.

26. (1) A right to maintenance under section 22 shall from the moment—

(*a*) when such right is decreed by a court of law,

(*b*) when such right is reduced to writing by the parties concerned, such writing being registered under the Mysore Registration Regulation, 1903, and

(*c*) when a claim is definitely made in writing, such writing being registered under the Mysore Registration Regulation, 1903;

be deemed to be a charge upon the whole extent of the property liable to meet the claim under sub-section (2) or sub-section (3) of that section, as the case may be, and shall have priority over all alienations of such property made subsequent thereto other than an alienation made in good faith for legal necessity by the manager of a joint Hindu family.

(2) A wife's right to maintenance under section 25 shall, from the moment when a claim is definitely made in writing, such writing being registered under the Mysore Registration Regulation, 1903, be deemed to be a charge upon all property and interest in property possessed by the husband, and shall have priority over all his personal debts, and over all subsequent alienations of such property or interest, other than an alienation for valuable consideration

made in good faith for a necessary or reasonable purpose and without intent to defeat the right.

(3) Nothing in this section shall—

(*a*) preclude the parties concerned by agreement, or a Court by decree in a suit to which the person entitled to maintenance is a party, from confining the charge in respect of the right to maintenance to a specifice portion of the property liable; or

(*b*) preclude any person who has obtained for consideration, and without notice of an intention to defeat the right to maintenance, any property or interest in property liable to the claim, from requiring that the claim shall, in the first instance, be satisfied out of any portion of the said property or interest in property that may not have been alienated to him, so far as such portion will extend, before proceeding against the portion alienated.

M. N. KRISHNA RAO,
Dewan.